

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ELGRET L. BURDEX,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-170-D
)	
J. GERLACH, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B). Judge Purcell recommends the dismissal of this action without prejudice due to Plaintiff's failure to pay the filing fee or submit a proper motion to proceed *in forma pauperis*, and failure to prosecute his case.

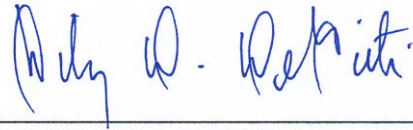
The case file shows no timely objection to the Report nor request for an extension of time, even though Plaintiff was expressly informed of his right to object, the procedure for doing so, and the consequences of failing to object.¹ Therefore, the Court finds that Plaintiff has waived further review of all issues addressed in the Report. *See Moore v.*

¹ The case file reflects that the Clerk's mailing of a copy of the Report to Plaintiff was returned as undeliverable. However, it is Plaintiff's obligation to provide written notice of a change of address. *See* LCvR5.4(a) ("Papers sent by the court will be deemed delivered if sent to the last known address given to the court."); *see also Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (*pro se* plaintiff who failed to provide a change of address or address correction waived review by failing to make a timely objection).

United States, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons explained by Judge Purcell, the Court finds that this action should be dismissed without prejudice to refiling.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is ADOPTED in its entirety. This action is DISMISSED without prejudice to a future filing. A separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 16th day of April, 2019.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE